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**U.S. District Court  
District of Columbia (Washington, DC)  
CIVIL DOCKET FOR CASE #: 1:08-cv-00622-CKK**

POETT v. U.S. DEPARTMENT OF JUSTICE  
Assigned to: Judge Colleen Kollar-Kotelly  
Cause: 05:552 Freedom of Information Act

Date Filed: 04/10/2008  
Date Terminated: 01/19/2010  
Jury Demand: None  
Nature of Suit: 895 Freedom of  
Information Act  
Jurisdiction: U.S. Government Defendant

**Plaintiff**

**JOSEPH POETT**

represented by **Joan Augusta Harvill**  
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**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

V.

**Defendant**

**U.S. DEPARTMENT OF JUSTICE**

represented by **Christian Alexander Natiello**  
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**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Wynne Patrick Kelly**  
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Date Filed	#	Docket Text
04/10/2008	<a href="#"><u>1</u></a>	COMPLAINT against U.S. DEPARTMENT OF JUSTICE ( Filing fee \$ 350, receipt number 4616011556) filed by JOSEPH POETT. (Attachments: # <a href="#"><u>1</u></a> Civil Cover Sheet, # <a href="#"><u>2</u></a> Exhibit)(td, ) (Entered: 04/11/2008)
04/10/2008		SUMMONS (3) Issued as to U.S. DEPARTMENT OF JUSTICE, U.S. Attorney and U.S. Attorney General (td, ) (Entered: 04/11/2008)
04/10/2008	<a href="#"><u>2</u></a>	NOTICE OF RELATED CASE by JOSEPH POETT. Case related to Case No. 07-CV-1374 CKK. (td, ) (Entered: 04/11/2008)
05/05/2008	<a href="#"><u>3</u></a>	NOTICE of Appearance by Christian Alexander Natiello on behalf of U.S. DEPARTMENT OF JUSTICE (Natiello, Christian) (Entered: 05/05/2008)
05/15/2008	<a href="#"><u>4</u></a>	Unopposed MOTION for Extension of Time to File Answer <i>or Otherwise Respond to the Complaint</i> by U.S. DEPARTMENT OF JUSTICE (Natiello, Christian) (Entered: 05/15/2008)
05/20/2008		MINUTE ORDER (paperless) granting <a href="#"><u>4</u></a> unopposed Motion for Extension of Time to File Answer or Otherwise Respond to the Complaint. Accordingly, Defendants shall have until and including June 23, 2008, to File Answer or Otherwise Respond to the Complaint. Signed by Judge Colleen Kollar-Kotelly on May 20, 2008. (SM) (Entered: 05/20/2008)
05/20/2008		Set/Reset Deadlines: Answer due by 6/23/2008. (dot, ) (Entered: 05/21/2008)

05/22/2008	<a href="#">5</a>	ORDER Establishing Procedures for Electronic Filing for Cases Assigned to Judge Colleen Kollar-Kotelly, signed on May 22, 2008. (SM) (Entered: 05/22/2008)
06/23/2008	<a href="#">6</a>	ANSWER to Complaint by U.S. DEPARTMENT OF JUSTICE. Related document: <a href="#">1</a> Complaint filed by JOSEPH POETT.(Natiello, Christian) (Entered: 06/23/2008)
07/09/2008	<a href="#">7</a>	ORDER.The parties shall confer and propose a schedule for proceeding in this matter. The schedule should address the status of Plaintiff's FOIA request, whether a Vaughn index will be required in this case, and should propose a schedule for the filing of dispositive motions. The parties shall file the schedule not later than July 25, 2008. Signed by Judge Colleen Kollar-Kotelly on July 9, 2008. (lcckk2) (Entered: 07/09/2008)
07/25/2008	<a href="#">8</a>	MEET AND CONFER STATEMENT. (Harvill, Joan) (Entered: 07/25/2008)
08/01/2008		MINUTE ORDER (paperless). The Court has reviewed the parties' proposed schedule for proceeding in this matter and orders as follows: (1) Defendant shall file a Vaughn index in this case no later than August 25, 2008; (2) dispositive motions shall be filed on or before September 23, 2008; (3) oppositions to dispositive motions shall be filed on or before October 23, 2008; and (4) replies shall be filed on or before November 12, 2008. The Court will consider whether any in camera review is necessary after briefing is complete. Signed by Judge Colleen Kollar-Kotelly on August 1, 2008. (lcckk2) (Entered: 08/01/2008)
08/01/2008		Set/Reset Deadlines: Dispositive Motions due by 9/23/2008. Response to Dispositive Motions due by 10/23/2008. Reply to Dispositive Motions due by 11/12/2008. Defendant's Vaughn Index due by 8/25/2008. (dot, ) (Entered: 08/06/2008)
08/25/2008	<a href="#">9</a>	MOTION for Extension of Time to File <i>its Vaughn Index</i> by U.S. DEPARTMENT OF JUSTICE (Natiello, Christian) (Entered: 08/25/2008)
08/26/2008		MINUTE ORDER (paperless) granting <a href="#">9</a> Defendant's Motion for Extension of Time to File its Vaughn Index. Accordingly, Defendant shall have until and including September 8, 2008, to file its Vaughn Index; the schedule for filing Motion for Summary Judgment shall remain the same. Signed by Judge Colleen Kollar-Kotelly on August 26, 2008. (SM) (Entered: 08/26/2008)
08/26/2008		Set/Reset Deadlines: Vaughn Index due by 9/8/2008. (dot, ) (Entered: 08/27/2008)
09/08/2008	<a href="#">10</a>	Vaughn Index <i>Notice of Filing</i> . (Attachments: # <a href="#">1</a> Declaration of David M. Hardy, # <a href="#">2</a> Exhibit to Declaration of David M. Hardy)(Natiello, Christian) (Entered: 09/08/2008)

09/25/2008		MINUTE ORDER (paperless). On August 26, 2008, the Court issued a Minute Order granting Defendant's Motion for Extension of Time to File its Vaughn Index until and including September 8, 2008, but specifically noting that the schedule for filing Motions for Summary Judgment would remain the same. That schedule required that each party's dispositive motion be filed no later than September 23, 2008. Neither party has filed a dispositive motion, and each is therefore in non-compliance with the Court's previous Orders. Accordingly, by 9:00 a.m. on Friday, September 26, 2008, each party is required to file an explanation of why they have failed to comply with the Court's Orders. Signed by Judge Colleen Kollar-Kotelly on September 25, 2008. (lcckk2) (Entered: 09/25/2008)
09/25/2008	<a href="#"><u>1</u></a> <a href="#"><u>1</u></a>	MOTION for Leave to File <i>Motion for Summary Judgment Out of Time</i> by U.S. DEPARTMENT OF JUSTICE (Natiello, Christian) (Additional attachment(s) added on 9/26/2008: # <a href="#"><u>1</u></a> Exhibit Motion for Summary Judgment) (nmw, ). (Entered: 09/25/2008)
09/25/2008	<a href="#"><u>1</u></a> <a href="#"><u>2</u></a>	ENTERED IN ERROR..... MOTION for Summary Judgment by U.S. DEPARTMENT OF JUSTICE (Natiello, Christian) Modified on 9/26/2008 (nmw, ). (Entered: 09/25/2008)
09/26/2008	<a href="#"><u>1</u></a> <a href="#"><u>3</u></a>	Civil Statement from Plaintiff Explanation. (Harvill, Joan) (Entered: 09/26/2008)
09/26/2008		NOTICE OF ERROR re <a href="#"><u>12</u></a> Motion for Summary Judgment; emailed to christian.natiello@usdoj.gov, cc'd 3 associated attorneys -- The PDF file you docketed contained errors: 1. Leave to file not yet requested and/or granted, 2. Doc. No. 12 is entered in error and has been attached as an exhibit to the Motion for Leave to File (nmw, ) (Entered: 09/26/2008)
09/26/2008	<a href="#"><u>1</u></a> <a href="#"><u>4</u></a>	Memorandum in opposition to re <a href="#"><u>11</u></a> MOTION for Leave to File <i>Motion for Summary Judgment Out of Time</i> filed by JOSEPH POETT. (Harvill, Joan) (Entered: 09/26/2008)
09/26/2008		MINUTE ORDER (paperless) granting Defendants' <a href="#"><u>11</u></a> Motion for Leave to File Their Summary Judgment Motion Out of Time. The Court's briefing schedule provided that both parties would file dispositive motions no later than September 23, 2008. Neither party filed such a motion by that date, and on September 25, 2008 the Court issued an Order requiring the parties to address their failure. The same day, Defendants filed their Motion for Leave to File Their Summary Judgment Motion Out of Time, along with a copy of their Motion. Plaintiff now opposes Defendants' Motion for Leave to File asserting that he will be prejudiced if his time to respond is cut short. Regardless of whether Defendants have shown excusable neglect for their failure to file in time, this FOIA case cannot be resolved unless one or both parties file dispositive motions. As Plaintiff did not file a dispositive motion, and is apparently not requesting leave to file such a motion out of time, if the Court does not permit Defendants to file their motion, this case is at a standstill and cannot move forward. Accordingly, in order to advance this litigation, the Court shall allow Defendants to file their dispositive motion out of time. Plaintiffs Opposition to

		Defendants' Motion shall be filed no later than October 27, 2008 (an extension of four days from the original deadline), and Defendants' Reply shall be filed no later than November 14, 2008. Signed by Judge Colleen Kollar-Kotelly on September 26, 2008. (lcckk2) (Entered: 09/26/2008)
09/26/2008	<a href="#">1</a> <a href="#">5</a>	MOTION for Summary Judgment by U.S. DEPARTMENT OF JUSTICE (nmw, ) (Entered: 09/29/2008)
10/27/2008	<a href="#">1</a> <a href="#">6</a>	Memorandum in opposition to re <a href="#">15</a> MOTION for Summary Judgment <i>Plaintiff's Opposition to Def. motion sum jud</i> filed by JOSEPH POETT. (Attachments: # <a href="#">1</a> Exhibit Exhibits 1 through 8 to Opposition defendant's motion summary judgment) (Harvill, Joan) (Entered: 10/27/2008)
11/03/2008	<a href="#">1</a> <a href="#">7</a>	REPLY to opposition to motion re <a href="#">15</a> MOTION for Summary Judgment filed by U.S. DEPARTMENT OF JUSTICE. (Attachments: # <a href="#">1</a> Declaration (Supplemental) of David M. Hardy)(Natiello, Christian) (Entered: 11/03/2008)
11/07/2008	<a href="#">1</a> <a href="#">8</a>	MEMORANDUM re <a href="#">16</a> Memorandum in Opposition, filed by JOSEPH POETT, <a href="#">17</a> Reply to opposition to Motion filed by U.S. DEPARTMENT OF JUSTICE by JOSEPH POETT. (Attachments: # <a href="#">1</a> Supplement Exhibit 1-7 to Supplement to Plaintiff's Opposition to Defendant's Motion summary judgment, # <a href="#">2</a> Supplement First pg of Exhibit 6 to Supplement to Plaintiff's Opposition to Defendant's Motion summary judgment)(Harvill, Joan) (Entered: 11/07/2008)
12/22/2009		MINUTE ORDER (paperless). Plaintiff filed the above-captioned action alleging violations of the Freedom of Information Act. Plaintiff's lawsuit is based upon his request, under FOIA, for certain records relating to the decision by DSAT to deny him access to select agents and toxins within the course of his work as a chemist based upon his alleged knowing involvement with a terrorist organization. Plaintiff's counsel explained that Plaintiff needed access to such records because, "[i]n order... to defend himself against the charge of knowing involvement with an organization that engaged in intentional crimes of violence, it is necessary that he be appraised of the date or dates, time or times, place or places of his alleged involvement with said organization and a description of what acts he allegedly engaged in that made him suspect [as well as] the identity of the Organization Joseph Poett was allegedly involved with." Complaint, Ex. 1 at p. 2. Plaintiff's challenge to the decision denying him access to select agents and toxins is the subject of a related lawsuit, 07cv1374. The Court notes that Plaintiff, in the course of litigating that related action, has been advised of the basis for the decision to deny him access to select agents and toxins, which appears to satisfy his underlying reasons for the instant action, as indicated by his attorney. Moreover, the Government defendants in the related action have just advised the Court that the FBI no longer reasonably suspects Plaintiff of knowing involvement with an organization that engages in domestic or international terrorism or with any other organization that engages in intentional crimes of violence and that Plaintiff is now eligible for access to select agents or toxins. Given these developments in the related case, the parties in this action shall file a joint status report, no later than January 15, 2010, updating the Court as to the current status of this action and advising the Court as to whether Plaintiff intends to continue to pursue the instant action. Signed by Judge Colleen Kollar-Kotelly on December 22, 2009.

		(lcckk2) (Entered: 12/22/2009)
01/15/2010	<a href="#">1</a> <a href="#">9</a>	ENTERED IN ERROR.....STATUS REPORT <i>joint status report</i> by JOSEPH POETT. (Harvill, Joan) Modified on 1/19/2010 (znmw, ). (Entered: 01/15/2010)
01/15/2010	<a href="#">2</a> <a href="#">0</a>	STATUS REPORT <i>Joint status report</i> by JOSEPH POETT. (Harvill, Joan) (Entered: 01/15/2010)
01/18/2010	<a href="#">2</a> <a href="#">1</a>	ORDER. Based on the reasoning set forth in an accompanying memorandum opinion, this case is DISMISSED subject to the filing of Plaintiff's Motion for Attorneys' Fees and Costs. Defendant's pending <a href="#">15</a> Motion for Summary Judgment is therefore DENIED as MOOT. Finally, the Plaintiff's Motion for Attorneys' Fees and Costs is due on or before February 18, 2010; Defendants' Opposition to Plaintiff's Motion for Attorneys' Fees and Costs is due on or before March 22, 2010; and Plaintiff's Reply, if any, is due on or before April 12, 2010. This is a final, appealable Order. Signed by Judge Colleen Kollar-Kotelly on January 18, 2010. (lcckk2 ) (Entered: 01/18/2010)
01/18/2010	<a href="#">2</a> <a href="#">2</a>	MEMORANDUM OPINION. Signed by Judge Colleen Kollar-Kotelly on January 18, 2010. (lcckk2) (Entered: 01/18/2010)
01/19/2010		NOTICE OF ERROR re <a href="#">19</a> Status Report; emailed to Abogadaxyz@aol.com, cc'd 3 associated attorneys -- The PDF file you docketed contained errors: 1. Entered in error as a duplicate of Docket Entry <a href="#">20</a> . (znmw, ) (Entered: 01/19/2010)
01/19/2010		Set/Reset Deadlines: Motion for Attorneys' Fees and Costs due by 2/18/2010. Response due by 3/22/2010. Reply due by 4/12/2010. (dot, ) (Entered: 01/20/2010)
02/18/2010	<a href="#">2</a> <a href="#">3</a>	First MOTION for Attorney Fees <i>and Costs of Suit</i> by JOSEPH POETT (Attachments: # <a href="#">1</a> Declaration, # <a href="#">2</a> Exhibit)(Harvill, Joan) (Entered: 02/18/2010)
02/19/2010		MINUTE ORDER (paperless) referring Plaintiff's <a href="#">23</a> Motion for Attorneys' Fees and Costs of Suit to Magistrate Judge Deborah A. Robinson for resolution. The Clerk of the Court shall issue a Form 299 in connection with this referral. Signed by Judge Colleen Kollar-Kotelly on February 19, 2010. (lcckk2 ) (Entered: 02/19/2010)
02/24/2010	<a href="#">2</a> <a href="#">4</a>	CASE REFERRED to Magistrate Judge Deborah A. Robinson <a href="#">23</a> First MOTION for Attorney Fees and Costs of Suit by JOSEPH POETT. (kb) (Entered: 02/25/2010)
03/22/2010	<a href="#">2</a> <a href="#">5</a>	Memorandum in opposition to re <a href="#">23</a> First MOTION for Attorney Fees <i>and Costs of Suit</i> filed by U.S. DEPARTMENT OF JUSTICE. (Natiello, Christian) (Entered: 03/22/2010)

04/01/2010		Status Conference set for Tuesday, 4/13/2010 @ 10:30 AM in Courtroom 4-2nd Floor, E. Barrett Prettyman Building before Magistrate Judge Deborah A. Robinson. (EW) (Entered: 04/01/2010)
04/12/2010	<a href="#">2</a> <a href="#">6</a>	REPLY to opposition to motion re <a href="#">23</a> First MOTION for Attorney Fees <i>and Costs of Suit</i> filed by JOSEPH POETT. (Attachments: # <a href="#">1</a> Exhibit 1992 letter, # <a href="#">2</a> Exhibit) (Harvill, Joan) (Entered: 04/12/2010)
04/13/2010	<a href="#">2</a> <a href="#">7</a>	NOTICE of Appearance by Wynne Patrick Kelly on behalf of U.S. DEPARTMENT OF JUSTICE (Kelly, Wynne) (Entered: 04/13/2010)
04/13/2010		Minute Entry for proceedings held before Magistrate Judge Deborah A. Robinson: Status Conference held on 4/13/2010. Status Conference set for 5/27/2010 at 10:30 AM in Courtroom 4 before Magistrate Judge Deborah A. Robinson. (Court Reporter Bowles Reporting.) (lm) (Entered: 04/14/2010)
05/27/2010		Minute Entry for proceedings held before Magistrate Judge Deborah A. Robinson: Motion Hearing held on 5/27/2010 re <a href="#">23</a> First MOTION for Attorney Fees filed by JOSEPH POETT. Court ruling under advisement. (Court Reporter Bowles Reporting.) (lm ) (Entered: 05/28/2010)
09/30/2010	<a href="#">2</a> <a href="#">8</a>	MEMORANDUM OPINION AND ORDER by Magistrate Judge Deborah A. Robinson on 9/30/10 DENYING (Document No. 23) Plaintiffs Motion for Attorneys Fees and Costs of Suit. (EW) (Entered: 09/30/2010)
10/14/2010	<a href="#">2</a> <a href="#">9</a>	RESPONSE TO ORDER OF THE COURT re <a href="#">28</a> Memorandum & Opinion, Order <i>September 30 2010 Order denying Plaintiff's Motion for Attorney's Fees and Costs</i> filed by JOSEPH POETT. (Harvill, Joan) (Entered: 10/14/2010)
11/04/2010	<a href="#">3</a> <a href="#">0</a>	RESPONSE re <a href="#">29</a> <i>To Plaintiff's Objections To The Magistrate Judge's September 30, 2010, Order Denying Plaintiff's Motion For Attorney's Fees And Costs</i> filed by U.S. DEPARTMENT OF JUSTICE. (Natiello, Christian) Modified to add link on 11/5/2010 (znmw, ). (Entered: 11/04/2010)
11/12/2010	<a href="#">3</a> <a href="#">1</a>	REPLY re <a href="#">29</a> Response to Order <a href="#">30</a> <i>Response Reply to Def. Response to Pl Objections to Magistrate Judge's Sept. 30, 2010 Order</i> filed by JOSEPH POETT. (Harvill, Joan) Modified links and event title on 11/15/2010 (znmw, ). (Entered: 11/12/2010)

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